

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,

Plaintiff,

Criminal No. 11-0042-0018
ELECTRONICALLY FILED

v.

DUANE SCOTT,

Defendant.

**ORDER OF COURT RE: DEFENDANT'S SEALED MOTION
(DOC. NO. 1294) AND MOTION TO POSTPONE SENTENCING (DOC. NO. 1295)**

Presently before the Court is a letter submitted by Defense Counsel which, as previously ordered by this Court, sets forth the substance of what Counsel would have stated to the Court during the requested in camera conference. Doc. No. 1294. In essence, Defense Counsel states that a Mitigation Report has not been completed because of alleged lack of cooperation in providing information necessary for the preparation of the report. Defendant has also filed a Motion to Postpone Sentencing. Doc. No. 1295. Defendant's Motion will be **DENIED**.

Defendant, along with 18 other individuals, was indicted on June 7, 2011, for his role in a heroin distribution conspiracy. Doc. No. 143. Over 12 months ago, on November 19, 2012, Defendant changed his plea to not guilty to Count I of the Superseding Indictment. Doc. No. 1033. The Court scheduled a sentencing hearing for March 8, 2013. Doc. No. 1035. Since that time, the sentencing hearing has been postponed four times at Defendant's request (March 8, 2013, to May 15, 2013-Doc. No. 1153; May 15, 2013, to September 16, 2013; Doc. No. 1210; September 16, 2013, to October 25, 2013-Doc. No. 1275; October 25, 2013, to December 13, 2013-Doc. No. 1285). When Defendant's sentencing hearing was re-scheduled to December 13, 2013, the Court explicitly ordered that "THERE WILL BE NO FURTHER EXTENSIONS

SINCE THIS EXTENSION IS THE FOURTH.” Doc. No. 1285. All of Defendant’s Co-Defendants have been sentenced. The last of these sentencing hearings occurred in April 2013, over eight months ago. In essence, the resolution of this matter has been delayed over nine months.

The Court believes that Defendant needs finality in the matter he faces, in other words, after being detained since June 2011 (over 30 months) justice requires that Defendant be sentenced by this Court. The Court has continually allowed extensions in this case so that Defense Counsel could prepare for sentencing. However, this has still not occurred. There is no indication that yet another postponement of Defendant’s sentencing hearing would remedy the problem with completing the Mitigation Report. As previously ordered, Defense Counsel shall file the required documents for sentencing (Sentencing Memorandum, Position with Respect to Sentencing Factors, etc.)(due on December 5, 2013, as extended from November 25, 2013, at Defendant’s request) so that the Court may prepare for the Sentencing Hearing in this case which will occur on Friday, December 13, 2013. Defense Counsel, any individual subject to a subpoena, and anyone who wishes to, may present grounds for a variance or departure based upon the sentencing factors at the Hearing.

AND NOW, this 9th day of December, 2013, IT IS HEREBY ORDERED THAT Defendant’s Sealed Motion (Doc. No. 1294) and Defendant’s Motion to Postpone Sentencing are **DENIED**. The Sentencing Hearing in this case will be held on December 13, 2013, at 10:30am. All pre-sentencing submissions must be filed today.

s/ Arthur J. Schwab
Arthur J. Schwab
United States District Judge

cc: All Registered ECF Counsel and Parties